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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,865	11/15/2001	Daniel R. McClellan	15215.2	2263

7590

12/17/2003

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EXAMINER

GOETZ, JOHN S

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 12/17/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,865

Applicant(s)

MCCLELLAN ET AL.

Examiner

John S. Goetz

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 and 27-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27-29 is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s) _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Applicant's amendment has been received and entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. Claims 1-3 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by McWhorter, as explained in the previous Office action.

Claim Rejections - 35 USC § 103

4. Claims 4-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over McWhorter in view of Ballard, as explained in the previous Office action.
5. Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over McWhorter in view of Mingardi, as explained in the previous Office action.
6. Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over McWhorter in view of Mingardi, as explained in the previous Office action.

Allowable Subject Matter

7. Claims 27-29 are allowed.

Response to Arguments

8. Applicant's argument filed on 9/10/03 has been fully considered but they are not persuasive.
9. Applicants sole argument is that the claims include the requirement that the carriage assembly be completely located underneath the platform, while McWhorter discloses two

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elements above the platform, namely leg (38) and roller (42). The claims, however, do not recite the word "completely." Additionally, as explained in the previous Office action, McWhorter's carriage assembly has been reasonably interpreted to include only elements numbered 54 and 56. That this is a reasonable interpretation is evidenced by the fact that element 56 of McWhorter's disclosure is repeatedly referred to as an "undercarriage." Moreover, it is noted that the claims use the transitional phrase "comprising." The transitional term "comprising", which is synonymous with "including," "containing," or "characterized by," is inclusive or open-ended and does not exclude additional, unrecited elements or method steps. See, e.g., Genentech, Inc. v. Chiron Corp., 112 F.3d 495, 501, 42 USPQ2d 1608, 1613 (Fed. Cir. 1997). Thus, the claims do not exclude the additional supporting elements 38 and 42 disclosed by McWhorter. Further, upon a close inspection the McWhorter reference, the following disclosure is noted:

As seen best in FIG. 3, the tower has a base 36 of structural steel of generally U form, having rigid there with upper and lower legs 38 and 40 which respectively lie over and under the bed 10. These legs respectively have rollers 42 and 44 for supporting the base for travel about the periphery of the bed.

McWhorter, column 2, lines 39-45. Thus, the leg 38 and roller 40 are part of the tower not the undercarriage. Finally, even if the leg (38) and roller (42) could be considered part of the carriage assembly, the language of the claim does not distinguish over this configuration. The carriage assembly would remain "positioned" under the platform irrespective of any support element above the platform.

Conclusion

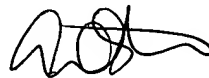
10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John S. Goetz whose telephone number is 703-308-1411. The examiner can normally be reached on Mon, Tues, Thurs, Fri 7:00am-5:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen Ostrager can be reached on 703-308-3136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

13. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-3136.



ALLEN OSTRAGER
SUPERVISORY PATENT EXAMINER
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JSG